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Albert W. Watkins
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In re Application of FISHER, RICHARD L.

Appl. No.: 09/756,688
Filed: January 09, 2001
For: Removable Bearing Assemblies

: DECISION ON PETITION
FOR SUPERVISORY
REVIEW

: 37 CFR 1.181

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This is a decision on the petition filed January 27, 2006 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of instituting interference proceedings in this application.

The petition is **Denied**.

Petitioner requests that the examiner's refusal to suggest an interference because of the presence of rejected claims be over-ruled. MPEP section 2303 states in part:

An interference should rarely be suggested until examination is completed on all other issues. Each pending claim must be allowed, finally rejected, or canceled. Any appeal from a final rejection must be completed, including any judicial review. Any petition must be decided.

As noted above, any appeal from a final rejection *must* be completed. Since petitioner has a pending appeal, the examiner did not err or abuse discretion in refusing to declare an interference, and petitioner is not entitled to the relief requested. It is noted that petitioner has cited MPEP 2309.02 as support for petitioner's position. This section of the MPEP does not exist in the latest revision of the MPEP (Eight Edition, October 2005 revision). Petitioner should refer to this current edition when referencing the above-cited section 2003.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Stephen P. Avila, at (571) 272-6678.


John Love
Director, Technology Center 3600

SJM: 3/21/06

